

Bd of Appeals

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF APPEALS AND INTERFERENCES



In re Applicant:

Shlomo SHKOLNIK

Serial No.: 09/914,487

Filed: August 27, 2001

For: MULTIDISCIPLINARY PROJECT
INTEGRATION SYSTEM

Examiner: Jason Scott PROCTOR

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Appeal No.: 2009-005409

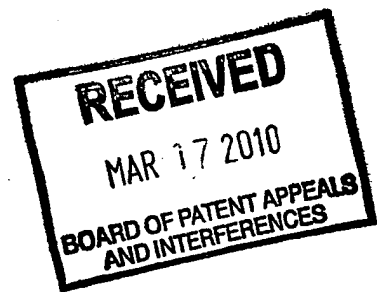
Confirmation No.: 8039

Group Art Unit: 2123

Attorney

Docket: 36538

Board of Patent Appeals and Interferences
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450



REQUEST FOR REHEARING

Sir:

This in response to the Decision on Appeal mailed on January 13, 2010, which response is being made on March 15, 2010 (March 13, 2010 being a Saturday).

Appellant hereby requests a Rehearing under 37 C.F.R. §41.52 and presents herewith a showing of points believed to have been misapprehended or overlooked by the Board. Appellant respectfully requests that the Board reconsider the rejection of claims 72 and 92 (and dependent claims) in light of the following discussion.

REMARKS

In the Decision the Examiner's rejection of all the claims in the Application was affirmed. Appellant submits that there were a number of errors, misapprehensions or overlooking of arguments made in the briefs. Some of these, in Appellant's opinion, should result in allowance of some claims. As to some of the errors, Appellant requests correction so that further prosecution will not be hampered.

Claim 92

In the decision regarding claim 92, the Board agreed with the Examiner that "Thackston discloses a plurality of databases" and that a database "associating worker

codes with one or more worker's responsible for the design" reads on Thackston's "stored design and analysis access permission data module 860". (Decision at page 13)

Claim 92 states, in part:

... where at least some parts of the aircraft are assigned a worker code that indicates worker responsibility for design of that part and also having a database that associates each of the worker codes with one or more workers responsible for the design..." (Emphasis added)

Appellant submits that Thackston's listing is for access only and even agreeing that Thackston would have worker access code, the worker codes of Thackston only indicate that the worker has permission to access the particular part in the database and provide no indication of any responsibility for the design as required by claim 92. Thackston is completely silent in regard to any identification of workers responsibilities for design. Furthermore, one would expect that access would depend on any one of a number of factors such as the need for using the design of one part in designing another part or in performing quality checks and thus the fact that a worker has access would not identify that worker as having responsibility for design and would give no indication of whether the workers are responsible for the part in question or not. This argument was made in the first three full paragraphs on page 17 of the reply brief.

Claim 72

In the decision regarding claim 72, the Board overlooked an important set of limitations that were argued in the reply brief starting at page 13 fourth full paragraph to page 14, third full paragraph. The first and last paragraphs are most relevant.

Claim 72 reads in relevant part:

"selecting a plurality, but fewer than 10% of the physical elements of each system of the vehicle to serve as major elements of the vehicle;

gathering for each of the major elements, information regarding the element, including an indication of the relative assembly of the element in the vehicle and a reference to a worker in charge of the element;

storing the gathered information in a database, having records only for the major elements;" (Emphasis added)

Appellant submits that none of the references select major elements of each system of the vehicle; none of the references provide a reference to a worker in charge of the element (see the discussion of claim 92 in this regard) and none teach storing only

the selected major elements in a database. In fact, even using the reasoning of the Board that finds that there may be fewer than 10% of the elements in the data-base of Thackston does not provide any selection process that selects major elements as required by the claim.

Aside from providing a system of access control (which as explained above does not designate a worker in charge of the part), there is no mention in either of the references to any of these acts. Nor, in a system such as Thackston which strives to provide as complete database as possible, would there be any motivation to provide any of these acts or the resulting database.

Appellant notes that the Board took notice that Appellant had not responded to the Examiner's finding regarding "relative proportions." Appellant understands that the Board felt that this constituted an unanswered argument. Appellant respectfully disagrees.


Appellant notes that the Examiner has not defined this term and that no definition or mention of this term appears in the MPEP other than in MPEP §716.02, in an unrelated context. In particular, MPEP §2144.04 (II) referred to by the Examiner does not use this term. Appellant has searched USPQ and USPQ2d for this term and found one instance of its use in In Re Dollinger and Kallenberger 177UDPQ 201 (CCPA 1973), again in a completely different context. Appellant notes further that this term was introduced for the first time in the Examiner's answer and was not used in any earlier action.

As understood, from the context of page 31 of the answer, this phrase just means that nothing novel or non-obvious is defined by the size of the index.

Thus, while Appellant did not specifically mention the term "relative proportions" in the response, the response to the rejection of claim 72 amply responds to what Appellant believes to be the thrust of this comment by the Examiner. Appellant submits that the discussion in the response regarding claim 72 from page 11 to page 16 responds to just this statement, even if the undefined term is not mentioned specifically.

The Board's decision on rehearing is respectfully awaited.

Respectfully submitted,


Paul Fenster
Registration No. 33,877

Date: March 15, 2010